

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 117]

NEW DELHI, FRIDAY, MAY 21, 1954

MINISTRY OF REHABILITATION

NOTIFICATION

New Delhi, the 21st May, 1954

S.R.O. 1673.—In exercise of the powers conferred by section 56 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby directs that the following amendments shall be made in the Administration of Evacuee Property (Central) Rules, 1950, namely:—

In the said Rules—

(a) in rule 5, for the words, figure, letters and brackets, "the proviso to section 2(e) (i) of the Act" the words, figures, letter and brackets "Explanation II to clause (d) of section 2" shall be substituted;

(b) For sub-rule (3) of rule 14 the following sub-rule shall be substituted, namely:—

"(3) The Custodian may cancel an allotment and evict the allottee if he is satisfied that—

(i) the allottee has secured the allotment by mis-representation or fraud; or

(ii) the allottee is in possession of more than one evacuee property of the same kind, that is to say, more than one residential premises, more than one business premises or more than one industrial premises; or

(iii) the allottee is in occupation or accommodation which, in the opinion of the Custodian, is in excess of the requirement of the allottee; or

(iv) the allottee or any person, normally residing with him or dependent on him, has built a house or otherwise acquired residential accommodation; or

(v) the allottee or any person, normally residing with him or dependent on him has been granted by the Government a plot of land for constructing a house thereon; or

(vi) the allottee has obtained gainful employment in a place other than the place where the evacuee property allotted to him is situate:

Provided that no allotment shall be cancelled under this sub-rule if any house built by the allottee or by any person normally residing with him or dependent on him or any residential accommodation otherwise acquired by the allottee or any such person has been requisitioned by the Government:

Provided further that the Custodian shall not evict an allottee—

(a) If the allottee or a person normally residing with him or dependent on him has let out his house or other residential accommodation referred to in clause (iv), unless the allottee has been served with a notice for a period of not less than three months;

(b) if the allottee or a person normally residing with him or dependent on him has failed to construct a house on the plot of land allotted to him, unless the allottee has been served with a notice for a period of not less than six months."

(c) in rule 15,—

(i) in sub-rule (3) the words "the proviso to" shall be omitted;

(ii) for sub-rule (7), the following sub-rule shall be substituted, namely:—

"(7) On the date fixed, the Custodian shall hold a summary inquiry into the title of the applicant to the property shall dispose of the application in accordance with the provisions of sub-section (2A) of section 16;"

(d) after rule 15, the following rules shall be inserted, namely:—

(i) 15A. *Procedure for making applications for grant of certificates under section 16.*—(1) An application for a certificate for restoration of evacuee property under sub-section (1) of section 16 shall not be entertained unless—

(a) where an order declaring the property to be evacuee property was made before the 21st May, 1954 (hereinafter referred to as the 'appointed date')—

(i) all appeals and revision applications permissible under the Act against such order have either become time barred on the appointed date or have been filed and disposed of before that date, and the application is made within sixty days of such date; or

(ii) where the period of limitation for filing such appeals or revision applications has not expired on the appointed date, such appeals and revision applications have been filed and the application is made within sixty days of the final order of the Custodian General in the case;

(b) where an order declaring the property to be evacuee property is made after the appointed date—

(i) all appeals and revision applications permissible under the Act against such order have been filed and the Custodian General has made a final order in the case; and

(ii) the application is made within sixty days of the final order of the Custodian General;

(c) where any proceedings for declaring the property to be evacuee property are pending on the appointed date and the application is made within sixty days of the final order of the Custodian General in the case.

(2) Notwithstanding anything contained in sub-rule (1), an application for a certificate for restoration of evacuee property under sub-section (1) of section 16 by an evacuee who migrated to West Pakistan from the State of Uttar Pradesh during the period between the 1st February 1950 and 31st May, 1950 and who is permitted to return to India for permanent resettlement may be entertained if it is made within sixty days of the appointed date or of the date of the return of the evacuee to India, whichever is later.

(3) Nothing in this rule shall apply to an application for a certificate for restoration of evacuee property under sub-section (1) of section 16 which is pending on the appointed date.

(ii) 15B. *Classes of persons to whom certificates under section 16 may be granted.*—A certificate under section 16 may be granted to the following classes of persons, namely:—

(1) any person who, since the 1st day of March, 1947, has continued to reside in India and did not at any time migrate to Pakistan and whose property has been declared as evacuee property;

(2) (a) any person who, on or after the 1st March, 1947, migrated from India to Pakistan but returned to India before the 18th July, 1948, and has settled therein:

Provided that such person has not subsequently visited Pakistan except in the circumstances and subject to the conditions specified in clause (b), or clause (c).

(b) Any person who left for Pakistan before 15th October, 1952, on a temporary visit taking with himself a "No objection to return" certificate and—

returned to India on or before 15th October 1952, under a valid permit issued under the Influx from Pakistan (Control) Act, 1949, as then in force, for permanent return to India:

Provided that such person has not thereafter made any other journey to Pakistan except in similar circumstances and subject to the same conditions, or in the circumstances and subject to the conditions specified in clause (c); or

(ii) has returned or returns, on or after the 15th October, 1952, on the authority of an Indian Passport, or repatriation certificate, or emergency certificate, or certificate of identity or, in the case of a seaman a continuous discharge certificate, issued by a competent authority under any law regulating travel between India and Pakistan:

Provided that such person has not thereafter made any other journey except in the circumstances and subject to the conditions specified in clause (c);

(c) any person who has left or leaves for Pakistan on or after the 15th October, 1952, on a temporary visit taking with himself an Indian Passport, or emergency certificate, or certificate of identity or, in the case of a seaman, a continuous discharge certificate issued by a competent authority under any law regulating travel between India and Pakistan and has returned or returns to India during the period for which any such travel document was or is valid;

(d) any person who came from Pakistan to India before the 18th October, 1949 under a valid permit issued under the Influx from Pakistan (Control) Act, 1949, as then in force, for permanent resettlement in India:

Provided that—

(i) no member of the family of such person wholly dependent upon his earnings for the provision of the ordinary necessities of life has after his return remained behind in Pakistan with his approval or consent;

(ii) such person has not subsequently left for Pakistan except in the circumstances and subject to the conditions specified in clause (b) or clause (c); and

(iii) no member of the family of such person hereinbefore described has subsequently left for Pakistan with his approval or consent.

(3) Mems belonging to Alwar and Bharatpur districts in the State of Rajasthan, and Gurgaon district in the State of Punjab, who migrated to Pakistan but who have returned to India, before the 18th day of October, 1949 for permanent resettlement in India.

(4) Evacuees who migrated to West Pakistan from the State of Uttar Pradesh during the period between the 1st February, 1950 and 31st May, 1950 and who are permitted to return to India for permanent resettlement in accordance with the arrangements agreed upon by the Government of India and the Government of Pakistan.

(5) Nationals of any foreign country who are not settled in Pakistan and who have not acquired any right to, or interest in, or benefit from, any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan.

Provided nothing in this rule shall apply to any person who has settled in Pakistan and has been visiting India merely for the purpose of looking after his property or other interest.

15C. Conditions subject to which certificates under section 16 may be granted.—A certificate under sub-section (1) of section 16 may be granted subject to all or any of the following conditions, namely:—

(i) that the person to whom property is restored shall not evict any allottee except in the circumstances in which lessees can be evicted under any law for the time being in force;

(ii) where the person to whom the property is restored is given vacant possession of the property he shall pay such compensation to the allottees in respect of any improvements made by them on the property as may be determined by the Custodian;

(iii) such other conditions as the Central Government may specify in the certificate;

(e) Rules 17, 19 and 21 shall be omitted.

(f) For rule 18 the following rule shall be substituted, namely:—

“18. *Enquiries under section 22 in pending cases.*—(1) The provisions of this rule shall apply to proceedings pending under section 22 on the commencement of the Administration of Evacuee Property (Amendment) Act, 1953 (XI of 1953).

(2) In addition to the circumstances mentioned in the Explanation to Section 22, the following shall be deemed to constitute a preparation for migration to Pakistan:—

(i) disposal of the bulk of one's house-hold effects,

(ii) disposal of assets essential to one's profession, practice or calling or trade such as the disposal of medical books and equipment by a doctor, the disposal of law books by a practising lawyer and the disposal of his stock-in-trade by a trader, and

(iii) disposal of the tools and instruments by which a person earns his livelihood.

(3) After a notice has been served on a person against whom any proceedings are pending under Section 22 on the commencement of the Administration of Evacuee Property (Amendment) Act, 1953 (XI of 1953), if the person fails to appear on the date specified in the notice the Custodian shall proceed to give the findings *ex parte*.

(4) If the party appears and puts in objections, his objections shall be decided after giving him a reasonable opportunity of adducing evidence in support of his objections. The Custodian may, in his discretion, allow any other party to produce evidence in rebuttal of such evidence and may himself call such evidence as he deems fit.

(5) After hearing all the evidence, the Custodian shall proceed to pronounce his order;

(g) in rule 20—

(i) in sub-rule (1) for the words, brackets and figures “sub-section (2) of section 40”, the words, figures and brackets “sub-section (1) of section 40” shall be substituted;

(ii) after sub-rule (1), the following sub-rule shall be inserted, namely:—

“(12) Where any evacuee property is auctioned in pursuance of sub-clause (v) of clause (b) of sub-section (5) of section 40 the transferee shall be permitted to bid at the auction and if his bid is accepted, the amount actually paid by the transferee as consideration for the property shall be set off against any bid made by him at the auction:

Provided that if the amount bid by the transferee falls short of the amount actually paid by him he shall not be entitled to any *refund* of the balance.”;

(h) after rule 20, the following rule shall be inserted, namely:—

“20A. *Application for obtaining previous approval under section 40 in respect of transfers.*—(1) An application for obtaining previous approval under section 40 in respect of transfer shall contain the following particulars, namely:—

(a) Name and address of the transferor;

(b) Boundaries, municipal number, and location of the property as also *Khasra* number in the case of agricultural land;

(c) Nature of the right proposed to be transferred;

(d) Whether any proceedings under the Act are pending for declaring the property to be evacuee property;

(e) the consideration agreed upon for the transfer of the property.

(2) Where an application is made for previous approval to the Custodian under section 40, the Custodian shall give such approval unless proceedings in respect of the property which is sought to be transferred are pending under the Act for declaring the property to be evacuee property.

(i) in clause (b) of sub-rule (2) of rule 22, the word ‘or’ shall be added at the end, and after clause (b), as so amended, the following clause shall be inserted, namely:—

“(c) Where the claim is made by the Government, by such evidence as the Custodian may deem to be sufficient.”;

(j) After sub-rule (2) of rule 26, the following sub-rule shall be inserted, namely:—

(3) Nothing in sub-rule (1) or sub-rule (2) shall entitle the Custodian to recover any charges on account of the administration, maintenance or repairs of any evacuee property from the sale-proceeds thereof but where any such property is disposed of by sale, it shall be lawful for the Custodian to realise from the sale-proceeds only such amount as is, in his opinion, sufficient to defray the expenses incurred in connection with, or incidental to, the disposal of such property.”;

(k) For rule 27 the following rule shall be substituted, namely:—

“27.—*Administration charges for movable properties.*—(1) Where any movable evacuee property is returned under section 16, or is disposed of by sale or is otherwise released, the Custodian may recover such administration charges or other charges on account of the maintenance, repair, transport or storage of such property and subject to such conditions, if any, as the State Government may by general or a special order from time to time, direct.

(2) This rule applies to Part ‘C’ States only.”;

(l) after rule 30, the following rule shall be inserted, namely:—

“30A. *Transfer of Cases.*—(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard or of his own motion and without such notice, the Custodian General or the Custodian, may at any stage of any proceeding pending before any officer subordinate to him withdraw it to himself and—

(i) try or dispose of it himself; or

(ii) transfer it for trial or disposal to any other officer subordinate to him and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the officer from whom it was withdrawn.

(2) Where any case has been withdrawn under sub-rule (1), the officer who thereafter tries such case may, subject to any special direction in the case of any order of transfer, either retry it, or proceed from the point at which it was transferred or withdrawn.”;

(m) in rule 32 in sub-rule (1), under the heading “(III) Applications”.

(a) clause (iii) shall be omitted;

(b) in clause (v), the figures “19” and “22” shall be omitted.

[No. 16(1)/54-Prop.I.]

P. G. ZACHARIAH, Dy. Secy.

